

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DEBRADRE D. JACKSON,

Plaintiff,

v.

Case No. 16-cv-1584-pp

DEPARTMENT OF CORRECTIONS, *et al.*,

Defendants.

**DECISION AND ORDER REGARDING PAYMENT
OF THE INITIAL PARTIAL FILING FEE**

The *pro se* plaintiff, Debradre D. Jackson, filed a civil rights complaint pursuant to 42 U.S.C. §1983, dkt. no. 1, along with a motion for leave to proceed without prepayment of the filing fee pursuant to 28 U.S.C. § 1915, dkt. no. 3. On December 9, 2016, the court ordered that by December 30, 2016, the plaintiff had to forward to the Clerk of Court the sum of \$1.63 as an initial partial filing fee. *Id.* at 5. The court advised the plaintiff that, once he paid this fee, the court would decide whether to allow his case to proceed without prepayment of the filing fee. As of today, the plaintiff still has not paid the initial partial filing fee. From this failure to pay, the court infers that the plaintiff no longer wants to prosecute this case.

Before dismissing this case for failure to pay the initial partial filing fee, however, the court must determine whether Jackson is at fault for the non-payment. See Thomas v. Butts, 745 F.3d 309, 312-13 (7th Cir. 2014). A court may not dismiss the suit of a prisoner who has a lack of funds in the account.

Id. at 312; see also §1915(b)(4) (“In no event shall a prisoner be prohibited from bringing a civil action . . . for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.”). “But if the court finds that the prisoner is unable to pay the partial filing fee at the time of collection because he intentionally depleted his account to avoid payment, the court in its sound discretion may dismiss the action.” Thomas, 745 F.3d at 312 (citations and internal quotation omitted).

The court **ORDERS** that on or before **January 27, 2017**, the plaintiff shall file a written document with the court, explaining to the court why he has not paid the initial partial filing fee and why the court should not dismiss his case for failure to pay. If the plaintiff does not either provide the written explanation, or pay the \$1.63 partial filing fee, by the end of the day on January 27, 2017, the court will dismiss the case without further notice or hearing.

The court will mail a copy of this order to the warden of Racine Correctional Institution.

Dated in Milwaukee, Wisconsin this 6th day of January, 2017.

BY THE COURT:

A handwritten signature in dark ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge